

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TRUSTEES OF THE SOFT DRINK)	
INDUSTRY - LOCAL UNION NO. 744)	
PENSION FUND,)	
)	
Plaintiff,)	Case No. 08 C 502
)	
v.)	Judge Leinenweber
)	
ROYAL CROWN BOTTLING COMPANY)	Magistrate Judge Nolan
OF CHICAGO, a Delaware Corporation,)	
)	
Defendant.)	
)	

DEFENDANT’S MOTION TO TAKE LIMITED DISCOVERY

Royal Crown Bottling Company of Chicago (“Defendant” or “Royal Crown”), through undersigned counsel, moves this Court to grant Defendant limited discovery regarding Soft Drink Industry – Local Union No. 744 Pension Fund’s (the “Fund”) motion for summary judgment. In support of its motion, Defendant states as follows:

1. On July 3, 2008 the parties appeared before this Court for status hearing and explained the nature of the case. Connor Aff. ¶ 3 (Attached hereto as Exhibit A). Plaintiff notified this Court that it intended to file a dispositive motion and the parties agreed that they did not need to take discovery before Plaintiff filed its motion. This Court therefore ordered Plaintiff to submit its summary judgment motion by August 14, 2008, Defendant to submit its response by September 11, 2008 and Plaintiff to reply by September 18, 2008. Connor Aff. ¶ 4. Defendant specifically advised the Court that, depending on the content of Plaintiff’s motion, it may need to take discovery to adequately respond to Plaintiff’s summary judgment motion. Connor Aff. ¶ 5.

2. On August 14, 2008, Plaintiff filed its summary judgment motion and supporting materials.

3. Defendant has reviewed Plaintiff's summary judgment motion and supporting materials and has determined that, at this time, it cannot present certain facts essential to Defendant's opposition to Plaintiff's motion until it has the opportunity to complete limited discovery. Connor Aff. ¶¶ 6-7.

4. For example, in its memorandum in support of summary judgment, Plaintiff claims that it engaged in no conduct which could have tolled the deadline for Royal Crown to demand arbitration. *See* Plaintiff's Memorandum of Law, p. 9-10; Connor Aff. ¶ 8.

5. Defendant cannot to respond to that and other arguments until it has had an opportunity to request certain documents from Plaintiff and complete a 30(b)(6) deposition of Plaintiff to determine, among other things, all of Plaintiff's actions (or inactions) which may have caused Royal Crown to miss the deadline to file a demand for arbitration. Connor Aff. ¶ 9.

6. The requested discovery is necessary for Royal Crown to respond to Plaintiff's motion. Connor Aff. ¶ 10.

7. Royal Crown proposes that it will serve its document requests within fourteen (14) days of the order granting this motion, take the 30(b)(6) deposition within twenty-one (21) days after receipt of the responses to its document requests and respond to the motion within thirty (30) days thereafter. Connor Aff. ¶ 11.

WHEREFORE, Defendant Royal Crown Bottling Company of Chicago respectfully requests that this Honorable Court: (A) grant Royal Crown leave to serve document requests on Plaintiff and take the 30(b)(6) deposition of Plaintiff; (B) order the parties to complete this limited discovery by October 23, 2008; (C) grant Royal Crown until November 24, 2008 to respond to the Plaintiff's motion for summary judgment; and (D) grant Royal Crown such further relief as may be proper.

DATED: August 21, 2008

Respectfully submitted,

ROYAL CROWN BOTTLING
COMPANY OF CHICAGO

By: /s/ Colin M. Connor
One of Its Attorneys

Joel H. Kaplan
Marc. R. Jacobs
Colin M. Connor
SEYFARTH SHAW LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
(312) 460-5000

CERTIFICATE OF SERVICE

I, Colin M. Connor, an attorney, do hereby certify that I have caused a true and correct copy of the foregoing DEFENDANT'S MOTION TO TAKE LIMITED DISCOVERY to be served upon the following counsel of record on August 21, 2008 through the Court's electronic filing system:

Librado Arreola
Barry G. Collins
Asher, Gittler, Greenfield & D'Alba, Ltd.
200 W. Jackson Blvd., Suite 1900
Chicago, Illinois 60606

/s/ _____ Colin M. Connor